

APPROVED: Meeting No. 41-89

ATTEST:

Sharon A. Gran

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 39-89

September 11, 1989

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on September 11, 1989, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember Steve Abrams

Councilmember James Coyle

Councilmember Viola Hovsepian

Councilmember David Robbins

The Mayor in the Chair.

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Re: City Manager's Report

1. Just prior to tonight's meeting, the Mayor and members of the Council participated in a ceremony in which six new City police officers were sworn in. For the first time in a number of years, the Police Department now has a full complement.

2. In response to those who have expressed an interest in the improvement project at College Parkway and Route 355 where a new left turn lane has been added, we are aware that the new boulevard is not aesthetically pleasing and are proceeding accordingly. If the trees don't survive, they will be replaced. The weeds have been cut, and the area will be landscaped this year.

3. This coming weekend the City is launching another Citywide event, Music Fair '89, which will be held on Saturday on the West Side at Frost Junior High School from 2:00 p.m. to 7:00 p.m. The program will feature an afternoon of jazz, and more information is available from the Recreation and Parks Department.

4. I am pleased to issue today the first in a regular series of Project Status Reports designed to give the Mayor and Council and other interested parties a brief overview of some of the more important projects we are involved in. Any input regarding the format would be most welcome.

5. The Scott Drive Bridge Improvement Project for which funds are appropriated in this year's CIP with a scheduled project completion date of September, 1989, has been delayed. The Federal Highway Administration has issued new guidelines requiring the State Highway Administration to have a construction project monitoring system for locally monitored projects with federal funding. The State Highway Administration does not currently have such an inspection arm, and our project is forced to wait until the SHA has that capability in place. We are not now in a position to relate when the project will be underway. In the meantime, we have identified some bridge deck repairs which will take only a couple of days and will be made soon. Although the Ritchie Parkway project is technically in the same category, that project will not be delayed because of an earlier agreement we had for inspection services.

Councilmember Robbins expressed his concern with the delay of the Scott Drive Bridge Project, noting that the bridge poses a serious problem to residents of the area. Staff was requested to transmit these concerns to the State Highway Administration.

6. The parking situation at City Hall has improved considerably, and a number of people within the organization as well as neighbors have commented on the improvements.

7. The reinstitution of an Explorer Post program affiliated with the Rockville Police Department is underway, and an orientation meeting is scheduled for September 21 for any young people interested in becoming involved.

Re: Presentation of plaques to financial sponsors who donated over \$1,000 and random award sponsors of the Rockville Rotary Twilight Runfest

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Noting the tremendous success of this year's Rotary Run encompassing the largest number of runners and volunteers ever, with credit to both the Rockville Rotary and the Montgomery County Roadrunners Club, the Mayor and Council presented plaques to the following sponsor organizations. Also on hand to present the awards were John Freeland of the Rockville Rotary Club and Dennis Steinauer and Carole Rivera, Race Managers, Montgomery County Roadrunners Club.

Financial Sponsors

Albee Shoes/New Balance
Anheuser Busch
Cable TV Montgomery
Chestnut Lodge Hospital
General Electric
Greater Rockville Committee, Inc.
Kimmel & Kimmel, Inc.
Maryland National Bank
M.D. IPA
Pettit and Griffin, Inc.
Rockville Gazette
Rockville Instant Printing
Rockville Metro Center
Rotary International
United Artists Theatres

Random Award Sponsors

The Bike Place
Holiday Inn Crowne Plaza

John Freeland, Rotary Club representative, presented the Mayor and Council with a check in the amount of \$10,000 from the proceeds of the race for the Recreation Department's Scholarship Fund. The second \$10,000 in proceeds will be distributed to Polio Plus.

Re: Proclamation declaring the
week of September 10-16, 1989,
as "Community Theatre Week"
in Rockville

Proclamation No. 19-89

By a unanimous vote of the Mayor and Council, September 10-16, 1989 was declared "Community Theatre Week" in Rockville. Councilmember Hovsepian read the Proclamation, the full text of which can be found in Proclamation File No. 4 of the Mayor and Council. Jean Harris of Rockville Little Theatre and Richard Battistelli of

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Rockville Musical Theatre accepted the Proclamation. Ms. Harris thanked the Mayor and Council for the recognition, noting that the Rockville Little Theatre has been providing stage entertainment to the Rockville community for 43 years.

Re: Proclamation declaring the
week of September 17-23, 1989,
as "Constitution Week."

Proclamation No. 20-89

By a unanimous vote of the Mayor and Council, September 17-23, 1989, was declared "Constitution Week" in Rockville. Councilmember Abrams read the Proclamation, the full text of which can be found in Proclamation File No. 4 of the Mayor and Council. Laura Hersperger of the Colonel Tench Tilghman Chapter of the National Society of the Daughters of the American Revolution accepted the proclamation and asked that the City fly its flags in commemoration of Constitution Week.

Re: Appointments

Upon motion of Councilmember Coyle, duly seconded, with a unanimous vote of those present (Councilmember Abrams being temporarily out of the Chamber), Cheryl Kagan was appointed as an alternate to the Alternative Community Service Commission for a two-year term.

Upon motion of Councilmember Coyle, duly seconded, with a unanimous vote of those present (Councilmember Abrams being temporarily out of the Chamber), James Henry was reappointed to a three-year term on the Senior Citizens Commission.

Upon motion of Councilmember Coyle, duly seconded, with a unanimous vote of those present (Councilmember Abrams being temporarily out of the Chamber), William Haberman was appointed as Chairman of the Science and Technology Commission for a one-year term.

Upon motion of Councilmember Coyle, duly seconded, with a unanimous vote of those present (Councilmember Abrams being temporarily out of the Chamber), William Meyer

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was appointed as Chairman of the Traffic and Transportation Commission for a one-year term.

Re: Motion to approve recommendation to Maryland-National Capital Park and Planning Commission of appointment of John Tyner to North Bethesda-Garrett Park Citizens' Advisory Committee

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, recommendation to the Maryland-National Capital Park and Planning Commission of appointment of John Tyner to the North Bethesda-Garrett Park Citizens' Advisory Committee was approved.

Re: Approval of Minutes

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the minutes of Meeting No. 38-89 (August 7, 1989) were approved, as written.

Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. Robert Jacques, 629 Aster Boulevard, discussed the poor visibility of the traffic signal at Nelson and Mannakee Streets and asked for consideration in remedying this situation.

Mr. Jacques also brought to the Mayor and Council's attention a potentially dangerous situation at the end of Azalea Drive and the edge of the woods where there is a deep culvert with a drainage pipe exposed. Staff noted that this situation would be reviewed. Councilmember Abrams also noted a similar problem at Potomac Woods Park which staff should handle.

Finally, Mr. Jacques made a request for the closing of Courthouse Square to through traffic, noting that it is difficult for pedestrians to move about safely.

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While it was noted that this street would be required for access to the Courthouse and the Whalen project, Mayor Duncan stated that the issue will be reviewed again.

2. Joseph Lynott, with offices at 51 Monroe Street, addressed Items 13 and 14 on the agenda and noted that he had filed with the Mayor and Council a request for reconsideration of the decision regarding 14 Beall Avenue. The City Attorney clarified that the Mayor and Council could proceed tonight with their vote, as a reconsideration request can be filed within 20 days of a zoning decision and considered at a later time. Mr. Glasgow also noted that appropriate certification by the party seeking reconsideration must be filed.

Councilmember Abrams asked if, during discussions of the decision, the Mayor and Council could take cognizance of Mr. Lynott's letter which includes the petition signed by neighbors indicating that they were not opposed to the rezoning request. The City Attorney noted that this would require reopening of the hearing record.

3. James Henry, Chairman of the Senior Citizens Commission, thanked the Mayor and Council and staff for the Volunteer Appreciation Party, noting that the food and music were great. He also commended Rockville Seniors, Inc., the Rockville Senior Citizens Commission and the Recreation staff for the celebration of National Grandparents Day held on September 10.

Mr. Henry stated that last April the Mayor had asked the Senior Citizens Commission to work to provide more job opportunities for seniors with small businesses in the City of Rockville. He noted that on October 24, a Senior Job Fair will be held at the Bauer Drive Center and that he hoped the small businesses will be on hand to accept applications and interview prospective employees. Mayor Duncan noted that this request had come out of the Small Business Roundtable.

4. Richard Arkin, 525 Lynch Street, addressed the City's FY90 adopted budget and CIP indicating that copies are not yet available to the public. Staff will respond

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to this issue.

Regarding Item 13 on the Agenda, Mr. Arkin noted that adoption of the West End Plan will ensure that large scale development will be kept out of the West End. He also requested that the names of members of the NPAG, staff members and Planning Commissioners who participated in the development of this Plan be included in the final document. Mayor Duncan stated that staff has indicated that these names will be included in the final plan.

There being no other citizen wishing to be heard, the Mayor closed the Citizens' Forum portion of the meeting.

Re: Consent Agenda

Upon motion of Councilmember Abrams, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- A. Award of Bid #23-90 to Eastman-Kodak Co. to furnish and install a high speed copier for the low bid of \$82,995.

This copier will replace the existing high speed copier in the Copy Center. The FY90 budget includes \$100,000 for this acquisition. It is the City's policy to purchase rather than lease major equipment.

- B. Award of Bid #18-90 for the purchase of four 35,000 GVWR dump trucks from Central GMC, Inc., Landover, MD, for the low bid price of \$127,260.

These four trucks will permit increased snow and ice control of City streets.

- C. Approval of waiver for on-site Storm Water Management for the property at 1307 Seven Locks Road in the Cabin John drainage area and acceptance of a \$25,300 contribution for the off-site SWM fund.

The developer, Montgomery County, plans to expand the existing prison facilities to add temporary, modular units.

- D. Approval of recommendation from the Cultural Arts Commission to designate Woodley Gardens Park as an Art in Public Places site. This site replaces the Mannakee Street circle site.

- E. Preliminary Review - Text Amendment Application T-97-89, Joseph A. Lynott, Attorney for C. M. Whalen, Applicant.

Amendments to allow "ownership lots" and "ownership plats" to be used in certain Town Center zones.

- F. Preliminary Review - Text Amendment Application T-98-89, Joseph A. Lynott, Attorney for 701 Rockville Pike Limited Partnership, Applicant.

Amendment to Limitations on Heights to allow roof top mechanical equipment enclosures and parapet walls to exceed the maximum building height by 19 feet.

- G. Preliminary Review - Text Amendment Application T-101-89, Mayor and Council of Rockville, Applicant.

Amendments to various sections of the Zoning Ordinance to allow additional opportunities for the child care facilities in residential and non-residential zones.

- H. Preliminary Review - Text Amendment Application T-100-89, Joseph A. Lynott, Attorney for Three Brothers Restaurant, Applicant.

Amendments to remove development nonconformity status from free-standing restaurants in TCO-1 Zone to allow nonconforming free-standing signs in the TCO-1 Zone to remain.

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- I. Introduction of Ordinance to Grant Application to Close and Abandon Public Way, SCA-58-89, Irwin Cooperman, Applicant.

The applicant requests abandonment of a public alley right-of-way running between Church Street and Hungerford Drive.

- J. Introduction of Zoning Text Amendment Application T-93-89, Mayor and Council of Rockville, Applicant.

Adoption of this Text Amendment would modify the definitions section of the Zoning Ordinance to eliminate retailing as an "accessory use" and to add a definition for "delicatessen/carry-out." Additional permitted uses are proposed for the I-1, Service Industrial Zone, and other zones.

- K. Introduction of Zoning Text Amendment Application T-95-89, Mayor and Council of Rockville, Applicant.

Adoption of this Text Amendment would modify the definitions section of the Zoning Ordinance to add a definition for "health professional" and to substitute health professional for medical practitioners in the definition of "home occupation."

- L. Motion to approve placement of 13 brick mailbox supports in the Monterra subdivision.

Developers of this subdivision have requested special approval to install brick mailbox supports within the right-of-way for the 13 homes under development in this subdivision.

- M. Approval of an Easement Grant from the Mayor and Council to the Latvian Evangelical Lutheran Church through a tract of City-owned land.

The purpose of the easement is to provide space for the installation of a water main to serve the proposed "Home for the Elderly" located at 400 Hurley Avenue.

Re: Motion to approve and execute a Memorandum of Understanding for the redevelopment of the Red Barn Urban Renewal Project.

The Mayor and Council, Board of Realtors, Suburban Maryland Building Industry Association, Rockville Housing Authority, Lincoln Park Citizens Association and the Maryland Manufactured Home Association have joined in a public/private endeavor to provide an affordable house at the former Red Barn site.

Harold Huggins of the Board of Realtors complimented the City for taking the lead in this pilot project. Ardell Shirley, Chairperson of the Rockville Housing Authority, noted that a number of people have already expressed an interest in the house to be erected.

Upon motion of Councilmember Abrams, duly seconded and unanimously passed by all those present (Councilmember Coyle being temporarily out of the Chamber), the Memorandum of Understanding for the redevelopment of the Red Barn Urban Renewal Project was approved. The parties then proceeded to sign the document.

Mayor Duncan stated that they are waiting for the County to declare the former Lincoln Park School surplus so that this site could also be used for affordable housing.

Re: Discussion and Instructions to Staff regarding the Rockville Housing Authority's request that the Mayor and Council waive Payments in Lieu of Taxes (PILOT) for Fiscal Years 89, 90 and 91.

Upon motion of Councilmember Abrams, duly seconded and unanimously passed by all those present (Councilmember Coyle being temporarily out of the Chamber), staff

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was instructed to prepare appropriate documentation waiving the Housing Authority's PILOT for Fiscal Years 89, 90 and 91 and to enter into negotiations with the Housing Authority to establish a new agreement for payment of PILOT. Following discussion regarding the fiscal years involved, staff responded that the appropriate documentation would be provided.

Re: Adoption of Resolution to deny
Zoning Map Amendment
Application M-54-89, Joseph
A. Lynott, Attorney for Peter
J. and Mayda Tzakins,
Applicant.

Resolution No. 25-89

The applicant requests a zoning change for a lot at 14 Beall Avenue from the R-60, One-Family Detached Residential Zone, to the O-2, Transitional Office Zone. At the request of Councilmember Abrams, this item was considered on the agenda before approval of the West End Plan as this issue on rezoning would have been moot had the West End Plan been acted upon first. Councilmember Abrams requested, and the Mayor and Council agreed, that the record in Zoning Map Amendment Application M-54-89 be reopened to accept the information from Mr. Lynott including a petition signed by neighbors in the immediate vicinity of 14 Beall Avenue.

Councilmember Abrams noted that in the previous discussions of the Neighborhood Plan and 14 and 16 Beall Avenue, all members of the Mayor and Council had expressed their views and that there was a 3-2 split with he and Councilmember Hovsepian in support of the staff recommendation in the Plan of retaining O-2 zoning for these properties. He went on to state that Councilmembers Coyle and Robbins noted neighborhood sentiment as their rationale; however, the document just received clearly reflects that the neighbors have no difficulty with the requested rezoning. He further noted that Mayor Duncan's rationale for maintaining the properties as residential was the existence of a pocket park, and the Mayor and Council had removed any reference to that pocket park

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in the Plan. Mayor Duncan then clarified his earlier remarks by stating that what he meant is the residential court that would be maintained by keeping that area residential. Councilmember Abrams asked the Mayor and Council for a reconsideration of their views on the Map Amendment application which is in conformity with the existing Master Plan.

Councilmember Hovsepian noted that if the vote were on reconsideration of the Plan, she would vote the same way she had earlier for O-2 zoning of the properties rather than residential for consistency with the Master Plan; however, since the Plan had been accepted, she would continue to support the decision that 14 and 16 Beall Avenue remain residential.

Councilmember Robbins stated that he had revisited the site recently knowing that reconsideration of the decision would likely be on the agenda. He stated that he feels strongly that residents should not feel that office and commercial development in the Town Center will encroach in the residential area and that the residential areas should remain as such.

Upon motion of Councilmember Robbins, duly seconded, with a vote of four ayes and one nay, Councilmember Abrams voting in opposition, Resolution No. 25-89, the full text of which can be found in Resolution Book No. 9 of the Mayor and Council, was adopted to deny Zoning Map Amendment Application M-54-89, requesting a zoning change for the property at 14 Beall Avenue.

Re: Adoption of Ordinance to adopt
West End-Woodley Gardens
East\West Neighborhood Plan
as an amendment to the Master
Plan.

Ordinance No. 21-89

This is a comprehensive neighborhood plan developed and approved by the Planning Commission for the Planning Area 4 neighborhood study area. The City Attorney

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advised that the Mayor and Council may wish to approve the Errata Sheet of the Approved West End-Woodley Gardens East\West Neighborhood Plan.

Upon motion of Councilmember Abrams, duly seconded and unanimously passed, the Plan was amended to include the items set forth on the Errata Sheet. Upon motion of Councilmember Robbins, duly seconded, with a vote of four ayes and one nay, Councilmember Abrams voting in opposition because of the 14 and 16 Beall Avenue zoning issue, Ordinance No. 21-89, the full text of which can be found in Ordinance Book No. 14 of the Mayor and Council, was adopted to approve the Amended West End-Woodley Gardens East\West Neighborhood Plan.

Re: FYI/Correspondence

Councilmember Hovsepien mentioned a letter regarding the sidewalk construction on Beall Avenue, and Mayor Duncan stated that Mr. Romer will be sending a letter to the resident. Councilmember Hovsepien asked about the lighting improvements for the Housing Authority, and staff was directed to proceed as outlined by Mr. Romer. Staff was also directed to proceed with the staff recommendation for the pool construction.

Councilmember Hovsepien also noted a letter from a citizen regarding a rent increase at one of the Polinger properties which is comprised primarily of young families. Councilmember Abrams noted that the letter's reference to rent guidelines was to a voluntary arrangement with Polinger for certain qualifying individuals. He noted that the Mayor and Council should be receiving from staff a report as to compliance with the rent increase guidelines and an update on the voluntary program. Staff was also requested to bring forward ideas to assist young families who are renting.

The Mayor and Council also directed staff to proceed with the development of a comprehensive tree regulatory package as outlined in a recent memorandum from staff.

Councilmember Robbins complimented staff on the new City limits sign at Route 28 and Glen Mill Road, and Mayor Duncan asked staff when the flower bed would be

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completed by the sign at Veirs Mill Road and Twinbrook Parkway.

Mayor Duncan referred to the August 31 FYI regarding the Maryland Municipal League seeking hosts for its 1991 Fall Legislative Conference, and there was no objection to Rockville submitting a letter of application. Mayor Duncan also asked for a status report on planning of the F. Scott Fitzgerald commemoration.

Re: New Business

Councilmember Coyle congratulated Councilmember Abrams on his testimony on the issue of Cable TV and the need for new regulation of the industry to give cities more control over cable systems. The National League of Cities' August 21, 1989 edition of Nation's Cities Weekly contained a sample resolution for adoption by municipalities. Councilmember Coyle noted that there is still a lot of concern over costs and service and the lack of authority the City has in these areas.

Councilmember Abrams stated that the House Committee on Energy and Environment is very split with respect to new regulations and modifications of the existing law between those who advocate no regulation and those who advocate more and that it is very likely that a middle ground will emerge. He also indicated that the NLC is taking the stance of welcoming either competitive services or a regulatory climate with cities having more control. They are also trying to get the phone company involved as an alternate provider.

It was agreed that staff would prepare a resolution for the next Mayor and Council General Session agenda consistent with the format provided by the National League of Cities for forwarding to the City's House and Senate representatives.

Regarding the materials provided by Community Development on possibilities for housing, Councilmember Hovsepian noted that the County didn't think there was much value in the City adopting an MPDU ordinance but that she felt the City should move forward with such an ordinance in view of the City's maximum expansion limits possibilities.

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Mayor Duncan indicated that there were a number of housing items emanating from an earlier worksession which would be brought forward on the September 25 agenda.

Councilmember Abrams raised a question regarding the applicability of an MPDU ordinance if adopted in the near future to the development of the Chestnut Lodge property. The City Attorney noted that it could apply depending upon how the ordinance was worded and that the ordinance could be structured so that it could be in place before final action on the Chestnut Lodge property development.

Mayor Duncan noted he had asked for an analysis from the City regarding the traffic situation on W. Montgomery when construction begins. He also requested that the City explore putting in lights on the Horizon Hills basketball court and asked staff to provide information on costs.

Councilmember Hovsepian noted the letter commending the City Manager from a citizen and also commended staff for the tremendous job in organizing the Volunteer Appreciation Party.

Councilmember Abrams requested an explanation of the configuration of the interchange at Montrose Road and I-270. Additionally, he asked what kind of input the City has had with the design and safety considerations of the Fortune Parc access which is being constructed.

Councilmember Abrams also noted the correspondence between the Chamber of Commerce, Mr. Lynott, the Planning Commission and Planning staff regarding revisions to the form for the use application permits and staging rules promulgated by the Planning Commission. These items are to be considered at the Planning Commission meeting of September 13, and Councilmember Abrams requested that the Mayor and Council have some review in these matters if deemed to be substantive changes. Staff was requested to follow up.

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Re: Executive Session

The Mayor and Council convened in Executive Session at 9:05 p.m. for consultation with counsel and to discuss land disposition matters.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:35 p.m., to convene again in Public Hearing at 7:30 p.m. on September 18, 1989, or at the call of the Mayor.